

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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DEC 19 1996

In the Matter of

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FCC 96J-3

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARYFederal-State Joint Board on  
Universal Service

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CC Docket No. 96-45

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**COMMENTS OF THE ALLIANCE FOR COMMUNITY MEDIA IN RESPONSE TO  
THE RECOMMENDED DECISION OF THE FEDERAL-STATE JOINT BOARD**

The Alliance for Community Media (the "Alliance") respectfully submits the following comments in response to the Recommended Decision of the Federal-State Joint Board on Universal Service, FCC 96J-3, in the above-captioned proceeding, released November 8, 1996 ("Recommended Decision").

**I. INTRODUCTION**

The Alliance believes that the provision of universal service to "at-risk" communities could have enormous beneficial impact on those communities' full participation in American society. On the whole, the Alliance supports the recommendations of the Joint Board which guarantee that telecommunications services are provided to all people in the United States<sup>1</sup>, including individuals and groups that may heretofore have been denied access to the benefits of both basic and advanced services. The Alliance believes that the

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<sup>1</sup> See, in general, 47 U.S.C. § 254(b).

Joint Board has shown considerable sensitivity to the public policy goals of localism, equitable access, and encouragement of diversity.

The Alliance continues to work in conjunction with organizations that have demonstrated concern for average Americans' access to information: People for the American Way, the Alliance for Communications Democracy, the Benton Foundation, the Center for Media Education, the League of United Latin American Citizens, the Minority Media Telecommunications Council, the National Council of La Raza, and the National Rainbow Coalition, the Office of Communication of the United Church of Christ and the Minority Media and Telecommunications Council. The Alliance and its colleagues believe that it is important to provide access to telecommunication services to all regions and all sectors of American society, for purposes of economic development, job creation and civil discourse. The Alliance fully supports the Board's proposal that universal service funds be made available to elementary and secondary schools, but is concerned that adults without access to a nearby public library may be excluded -- particularly in cash-strapped cities where libraries are few and far-between. Community computing or media centers offer a sensible venue for providing advanced services to adults in communities which might not otherwise have these services.

The Alliance for Community Media is a national membership organization dedicated to ensuring everyone's access to electronic media, including cable television. The Alliance represents the interests of an estimated 1.5 million individuals involved with community, religious and charitable groups who use public, educational and governmental ("PEG") access channels on cable television systems and other telecommunications networks and facilities to speak to their communities. Members

include access producers, access center managers and staff members, local cable advisory board members, city cable officials, cable company staff working in community programming, and others involved in or supportive of PEG access programming around the country. the Alliance provides technical assistance to its members, represents its members' interests by advancing a positive legislative and regulatory environment, and supports local organizing.

These centers facilitate and transmit local non-commercial, non-profit educational and public affairs television programming on local cable systems, pursuant to local franchise agreements authorized by Section 611 of the 1984 Cable Act.<sup>2</sup> As such, the Alliance represents the interests of religious, community, educational, charitable, and other non-commercial, non-profit institutions who utilize PEG access centers and facilities to speak to their memberships and their larger communities and participate in an ever-growing "electronic town hall." The organization represents the interests of the hundreds of thousands of employees and volunteers who help produce educational, governmental and public access programming. Finally, it represents the concerns of all persons who believe that the tremendous resources of the Information Age should be made available to "at-risk" communities that otherwise would have insufficient means.

In many smaller and rural towns and villages, PEG access is the only means by which residents receive truly local programming. In suburban jurisdictions which may be served by one or more broadcast stations, PEG access programming allows cable subscribers to participate in events and activities of importance to the suburban community, from local school board meetings and town council elections to televised

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<sup>2</sup> Cable Communications Policy Act of 1984, Sec. 611 (47 U.S.C. Sec. 531).

plays and concerts. PEG access also provides a forum for local religious education programming, community college courses, and high school football games. In large urban areas, PEG access provides a variety and diversity of communication which is unavailable on commercial local stations.

PEG access is provided on cable systems pursuant to a franchise agreement between a cable operator and a franchising authority (typically, a municipal government).<sup>3</sup> Cable operators may also be required to provide services, facilities and equipment to make such access possible.<sup>4</sup> Franchise authorities, which are entitled to collect franchise fees from cable operators,<sup>5</sup> will often provide a portion of these fees for PEG access.

The PEG access provisions of federal law result from Congress' resolve that our nation's telecommunications policy should promote the production and distribution of local programming produced by members of the community for the community's benefit.<sup>6</sup> As the House Commerce Committee stated in its report on the 1984 Cable Act:

Public access channels are often the video equivalent of the speaker's soap box or the electronic parallel to the printed leaflet. They provide groups and individuals who generally have not had access to the electronic media with the opportunity to become sources of information in the electronic marketplace of ideas. PEG channels also contribute to an informed citizenry by bringing local schools into the home, and by showing the public local government at work.<sup>7</sup>

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<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup>1984 Cable Act, Sec. 622 (47 U.S.C. Sec. 542)

<sup>6</sup>See H.Rep. No. 934, 98th Cong. 2d Sess. at 30-37 (discussing policy and legal rationale for PEG access).

<sup>7</sup>Id. at 30.

PEG access centers and community communication centers help fulfill the Commission's long-standing public interest in promoting localism<sup>8</sup> by providing an open forum for local programming.

During the past few years a number of PEG access centers have expanded their menu of offerings to include access to advanced telecommunications service, including Internet and on-line services. This expansion is in concordance with Alliance members' belief that everyone should not be mere passive consumers of information and entertainment, but active participants in political dialogue, local economic development, and artistic endeavor. The First Amendment requires that schools, churches, community organizations, and individuals have meaningful access to advanced forms of media as telecommunications become increasingly sophisticated -- and increasingly concentrated.<sup>9</sup> Consequently, the Alliance supports implementation of universal service that provide for the expansion of First Amendment access rights, and that guarantee that non-commercial, non-profit, educational and public institutions share the benefits of advanced communications technology.<sup>10</sup>

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<sup>8</sup>See Id.; see also Section 307(b) of the Communications Act of 1934 (47 U.S.C. Sec. 307), requiring Commission to provide fair, efficient and equitable distribution of radio service among "the several states and communities." See also Options Papers Prepared by the Staff for Use by the Subcommittee on Communications, H.Comm.Print 95-13, 95th Cong. 1st Sess. (1977) ("Options Papers") at 45-65.

<sup>9</sup>See Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 390 (1969)("[i]t is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market."); see also Note, "The Message in the Medium: the First Amendment on the Information Superhighway," 107 Harv.L.Rev. 1062, 1088 (1994)("If only certain classes of users have access, then particular viewpoints remain scarce."); See also D. Bazelon, "The First Amendment and the 'New Media' -- New Directions in Regulating Telecommunications," 31 Fed.Com.L.J. 201, 209 (1979)("[S]urely it is reasonable to assume that concentration will tend to stifle, rather than promote a multitude of tongues.").

<sup>10</sup>As Rep. Wallace White noted in debate on the Radio Act of 1927:

[L]icenses should be issued only to those stations whose operations would render a benefit to the public, are necessary in the public interest, or would contribute to the development of the art ... If enacted into law, the broadcasting privilege will not be a right of selfishness. It will rest upon an assurance of public interest to be served.

67 Cong.Rec. 5479 (1926).

## II. COMMUNITY COMPUTING CENTERS SHOULD BE PROVIDED WITH UNIVERSAL SERVICE SUPPORT.

Section 254(b) of the Telecommunications Act of 1996 (47 U.S.C. § 254(b)) instructs the Joint Board and the Commission to “base policies for the preservation and advancement of universal service” on a number of principles, including providing services to consumers in all regions of the nation,<sup>11</sup> additional services for elementary and secondary schools, libraries and health care providers<sup>12</sup> and “[s]uch other principles as the Joint Board and the Commission determine are necessary and appropriate for the protection of the public interest, convenience and necessity and are consistent with this Act.”<sup>13</sup> The Alliance believes that designating community computing centers to receive and offer special services similar to those provided pursuant to Section 254(h),<sup>14</sup> would be an appropriate additional policy for the Commission to promulgate, based on the principle that a range of institutions, not just libraries and schools, can offer meaningful opportunities for people who otherwise could not “get connected.”

The Federal-State Joint Board declined to recommend that community-oriented organizations and consortiums of non-profit organizations receive the discounts and benefits accorded to schools and libraries.<sup>15</sup> The Alliance respectfully urges the Commission to be more proactive. The Joint Board overlooked the fact that Congress has given the Commission the right to use its expansive authority under § 254(b)(7) of the Act

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<sup>11</sup> 47 U.S.C. § 254(b)(3).

<sup>12</sup> Id. at § 254(b)(6).

<sup>13</sup> Id. at § 254(b)(7).

<sup>14</sup> 47 U.S.C. §254(h).

<sup>15</sup>Recommended Decision at ¶ 26.

to achieve the overarching goals of the universal service provision. It is those goals, not an unnecessarily restrictive interpretation of §254(h)(5), that the Commission must heed.

**A. The Commission Should Interpret the Will of Congress Broadly.**

The 1996 Act gave both the Joint Board and the Commission broad plenary powers to provide universal service under new Section 254 of the Communications Act.<sup>16</sup> Subsection (b)(7) gives the Joint Board and Commission broad authorization to act; the statute specifically authorizes the two bodies to recommend and approve “[s]uch other principles as the Joint Board and the Commission determine are necessary and appropriate for the public interest, convenience and necessity and are consistent with this Act.”<sup>17</sup> Under section 254(b)(7), the Commission has broad powers to implement its policies as long as they are reasonable and not clearly inconsistent with the statute.<sup>18</sup>

The Joint Board interprets Section 254(h) as implying that any entity not specifically identified in that subsection is excluded from any form of universal service support.<sup>19</sup> The Alliance disagrees. The authority the Joint Board cites to support its interpretation that all non-enumerated entities are ineligible for any form of support is the definition section of Section 254(h)(4). This subsection, while clearly placing limitations on the types of schools and libraries that are eligible for support, does not explicitly or implicitly exclude any other entity from receiving any form of universal service support,

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<sup>16</sup> 47 U.S.C. §254.

<sup>17</sup> 47 U.S.C. §254(b)(7).

<sup>18</sup> See Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc. 467 U.S. 837, 842-32 (1984); see also ASTV v. FCC, 46 F.3d 1173, 1178 (D.C. Cir. 1995) (if statute is ambiguous, Commission’s interpretation need only be reasonable).

<sup>19</sup> Recommended Decision at ¶ 593.

and nothing in the legislative history of 1996 Act expressly prohibits entities such as PEG centers and community communications centers from receiving universal service assistance. The only entities that are expressly prohibited by the legislative history from receiving universal service funding are for-profit businesses and certain categories of schools and libraries.<sup>20</sup> The Joint Board's interpretation has the effect of reading subsection (b)(7) out of Section 254. Consequently, it is well within the authority of the Commission to provide PEG centers and community computing centers with discounts similar to those established by Section 254(h).

**B. Community Computing Centers Serve Important Needs In Connecting Individuals and Non-Profit Organizations to the Internet.**

Community computing centers serve much the same purpose as PEG access centers, have much of the same client base, and often already share facilities and personnel. Moreover, many PEG centers are expanding the scope of their services to make available training and use of computer and communications services. In the Boston, MA metropolitan area, for example, there are 22 community entities providing low-cost non-profit access to telecommunications services, including community centers and three PEG access centers.<sup>21</sup> Providing low-cost advanced services to PEG access centers and other community-based organizations provide an efficient way to provide universal access to

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<sup>20</sup> See H.Rep. 104-458, 104th Cong., 2d Sess.(Telecommunications Act of 1996 Conference Report) (Jan. 31, 1996) at 133:

New subsection (h)(4) specifies that the following entities are not eligible to receive discounted rates under this section: for-profit businesses, elementary and secondary schools with endowments of more than \$50,000,000, and libraries that are not eligible to participate in Statebased applications for Library Services and Technology Funds.

<sup>21</sup> See, e.g., Community Technology Center Review, Fall-Winter 1996-97 at 8 (attached as Exhibit A).



these services for low-income and other at-risk communities. Offering services through these centers could potentially reach a population group, including both individuals and non-profit organizations, that may not be able to be reached by public libraries.

Community networks link computers of citizens, institutions, organizations and businesses to one another, providing information from a multitude of sources and two-way communications opportunities for all that are connected to it. Community computing centers can fulfill an important role in the future of video-voice-data convergence; integrated PEG-computing centers allow video programming, databases, and two way communication to support each other and provide a range of social and information services to the community. The Alliance believes that the Joint Board, in considering how to serve a range of previously-excluded communities, should direct universal service funds to support these growing institutions (or consortiums which include such institutions) that offer residents of a community meaningful opportunities for access and expression at minimal cost to service providers. Such centers will give meaningful additional services to low-income telephone subscribers in concordance with the Commission's expressed desire to provide low-income services that are consistent with public interest, convenience, and necessity<sup>22</sup> and will promote First Amendment values which ensure that every citizen can fully and equally participate in society.

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<sup>22</sup> NPRM ¶58, 47 U.S.C. § 254(c)(1)(D)

## **II. SOME SCHOOLS AND LIBRARIES MAY NOT BE ADEQUATELY SERVED BY THE BOARD'S RECOMMENDATIONS.**

The Alliance strongly supports the sentiment of the Commission that schools and libraries be granted "the maximum flexibility to purchase whatever package of telecommunications services they believe will meet their telecommunications service needs most effectively and efficiently."<sup>23</sup> However, the Alliance is concerned that the range of services schools and libraries are allowed to receive and/or purchase with universal service discounts may be insufficient to allow students, teachers, and library users to make proper use of the services they have received.

The Alliance is generally supportive of the methodologies recommended by the Joint Board to aid schools and libraries. We particularly endorse the proposal that schools and libraries be allowed to enter into consortia with other entities to negotiate a better price for telecommunications services than might otherwise be possible.<sup>24</sup>

The Alliance also joins with other educational commenters in endorsing the percentage discount mechanism recommended by the Joint Board.<sup>25</sup> While the Alliance believes that service should be made available at no cost to the most disadvantaged schools, the matrix of discounts proposed by the Joint Board is a feasible and reasonable methodology for providing universal service support in a more or less equitable manner.<sup>26</sup>

The Alliance continues to have two concerns. First, as mentioned above, the Alliance believes that in certain districts, a requirement for even 10 percent matching as a

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<sup>23</sup> Recommended Decision at ¶458.

<sup>24</sup> Id. at ¶ 537.

<sup>25</sup> Id. at ¶549.

<sup>26</sup> Id. at ¶555.

sine qua non for universal service grants may be excessive. The Alliance believes that the Commission should create a new category in the recommended discount matrix which will allow schools in which 90 percent or more of students are eligible for the school lunch program to be eligible for the 100 percent discount. This will prevent the most at-risk schools from having to choose between competing necessities -- internet access and books, internet access and writing supplies, internet access and structural repair. Particularly in light of the Board's recommended requirement that schools have plans for acquiring hardware, software, wiring and teacher training in place before becoming eligible<sup>27</sup> for assistance (all of which may require outlays), even a ninety-percent discount may be no more than an empty promise if the most-disadvantaged schools cannot afford the support to make access possible.

The Alliance also has some concerns that relying on trade and professional associations to alert schools to the availability of this program<sup>28</sup> is inadequate, particularly when there are significant low-cost alternatives which will be equally effective. The Alliance proposes that, at minimum, a letter giving a broad general outline of the program, a general description of the application process, and a contact at the Commission should be mailed to the superintendent of every public school district in the United States and to the chief librarian or similar city official of each city, town and village that maintains a library system. This is information readily available to the

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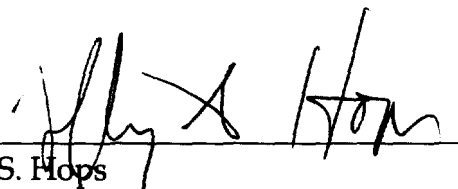
<sup>27</sup> Id. at ¶601.

<sup>28</sup> Id. at ¶606.

Commission; providing official notification will not only ensure maximum participation in this important program, but will let our children and parents know that the Commission is available to help them.

Respectfully Submitted,

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**EXHIBIT A**

## Mission Statement

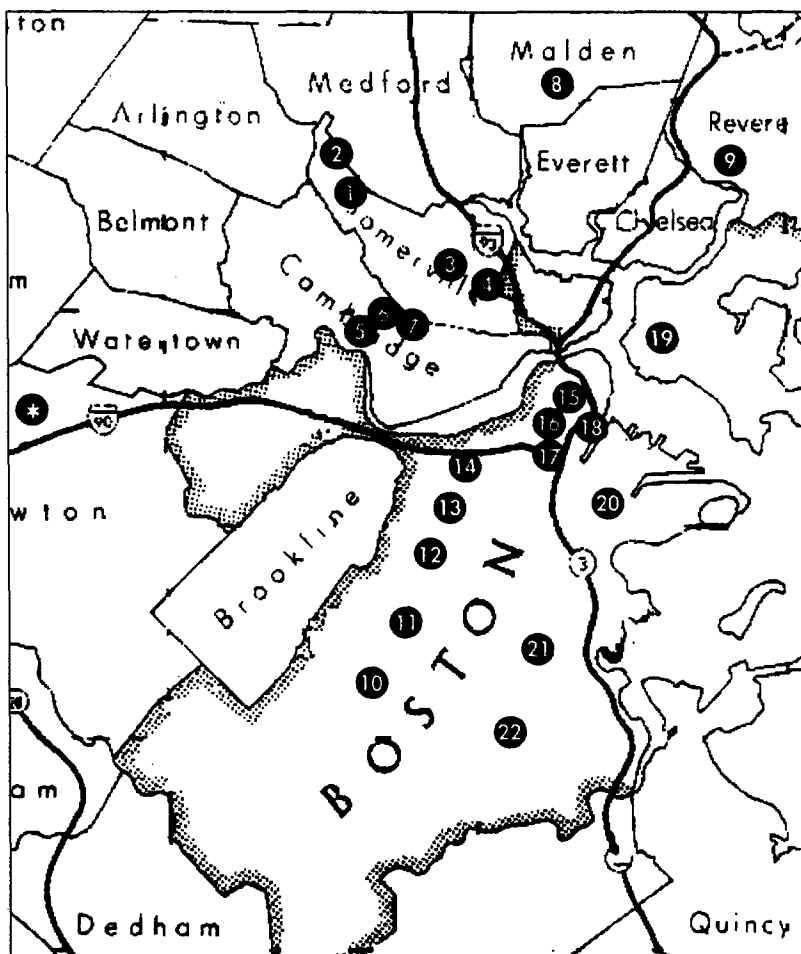
Community Technology Centers' Network (CTCNet) envisions a society in which all people are equitably empowered by technology skills and usage. CTCNet is committed to achieving this end.

CTCNet like its founding organization, Playing To Win, recognizes that, in an increasingly technologically dominated society, people who are socially and/or economically disadvantaged will become further disadvantaged if they lack access to computers and computer-related technologies.

CTCNet brings together agencies and programs that provide opportunities whereby people of all ages who typically lack access to computers and related technologies can learn to use these technologies in an environment that encourages exploration and discovery and, through this experience, develop personal skills and self-confidence.

CTCNet offers resources to enhance each affiliated agency/program's capacity to provide technology access and education to its constituency and to help and nurture other like-minded programs in its area. CTCNet will facilitate telecommunications, print, and in-person linkages enabling members to benefit from shared experience and expertise.

CTCNet will be a leading advocate of equitable access to computers and related technologies; it will invite, initiate, and actively encourage partnerships and collaborations with other individuals and organizations that offer resources in support of its mission; and it will strive, in every arena, to bring about universal technological enfranchisement.



## Community Technology Center Points of Access In Metro Boston

When Mayor Tom Menino made mention of six Boston CTCNet affiliates in his welcoming address to the All-Affiliates Conference at Boston University in June, he actually underestimated the number of CTCNet affiliates in Boston and the metropolitan area in general, which boasts the largest concentration of affiliates in the country. The above map locates 22 center-based agencies where people ordinarily without access can go to use equipment, receive training and support, and participate in collaborative projects. Note that five of these centers are tied to CTCNet through the Literacy Telecommunications Collaborative (LTC). In addition to these 22 centers, there are eight additional CTCNet affiliates within one hour's drive of Boston—in Manchester, NH, and elsewhere in Massachusetts in Gloucester, Fitchburg, Lowell, Shrewsbury, Worcester, Framingham, and New Bedford (see the Directory of Affiliates for more information, p. 38). Note that the asterisk circle west of Boston is the location for CTCNet/EDC. The first column lists centers north of the Charles River; those in the second are in Boston proper.

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|---|---|
| 1. Somerville Community Computing Center  | 10. Jamaica Plain Community Center (LTC)        |
| 2. Short Stop Youth Shelter               | 11. The Shelburne Center (Roxbury)              |
| 3. Somerville Community Access Television | 12. United South End Settlements                |
| 4. Somerville Boys and Girls Club         | 13. El Centro Del Cardenal                      |
| 5. Community Learning Center (LTC)        | 14. Jobs For Youth/Boston                       |
| 6. Cambridge Community Television         | 15. Virtually Wired                             |
| 7. Margaret Fuller House                  | 16. Asian-American Civic Association            |
| 8. Malden Access Television               | 17. Quincy School Community Council (LTC)       |
| 9. Jack Satter House (Revere)             | 18. The Clubhouse at the Computer Museum        |
|   | 19. E. Boston Harborside Community Center (LTC) |
|   | 20. Notre Dame Education Center                 |
|   | 21. The Haitian Multi-Service Center (LTC)      |
|   | 22. The Dorchester YMCA                         |